



# City of Wheatland

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## CITY COUNCIL MEETING STAFF REPORT

September 14, 2010  
Agenda Item: \_\_\_\_\_

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**Prepared by:**

Richard P. Shanahan, City Attorney

**Agenda Entries:**

Public Hearing concerning proposed extension of Ordinance No. 422, An Urgency Ordinance of the City of Wheatland Amending Wheatland Municipal Code Title 18 Regarding Medical Marijuana Dispensaries.

Consideration of adoption of interim ordinance to extend Ordinance No. 422, An Urgency Ordinance of the City of Wheatland Amending Wheatland Municipal Code Title 18 Regarding Medical Marijuana Dispensaries.

**Background, Purpose and Recommendation:**

On August 24, 2010, the City Council adopted Ordinance No. 422, An Urgency Ordinance of the City of Wheatland Amending Wheatland Municipal Code Title 18 Regarding Medical Marijuana Dispensaries. The ordinance amends the City Zoning Code to prohibit medical marijuana dispensaries in the City. Ordinance No. 422 is a short-term interim ordinance adopted pursuant to Government Code section 65858(a). The ordinance expires on October 8, 2010 unless extended.

Section 65858, subsections (a) and (c) provide in pertinent part that “The interim ordinance shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than two extensions may be adopted. . . . The legislative body shall not adopt or extend any interim ordinance pursuant to this section unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits,

variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare.”

City staff recommends that the City Council extend the urgency ordinance in order for the interim moratorium to remain in effect for one year until August 24, 2011. City staff continues to evaluate the City’s options and plans regarding the regulation of the sale of marijuana in Wheatland and staff continues to study an appropriate regular ordinance that addresses the establishment of medical marijuana dispensaries in the City. This matter is complicated because of evolving case law, which the city is following. Furthermore, there is a measure on the November 2010 statewide ballot (Proposition 19) that would legalize the personal use of marijuana under state law. Prop. 19 also would permit the City to regulate and tax the production and sale of marijuana in the City. If the proposition passes, the new law would further effect the scope of the City’s ability to regulate in this area. Further City regulation should await the outcome of the November election.

The proposed ordinance contains findings as required by section 65858. The findings are the same as those contained in Ordinance No. 422 because circumstances have not changed significantly since August when the City Council adopted the initial urgency ordinance.

A public hearing on this matter has been noticed for the September 14, 2010 City Council meeting. The Council should hear and consider comments at the public hearing prior to taking any action on the proposed ordinance.

**Recommended Motion:**

Move to adopt interim ordinance to extend Ordinance No. 422, An Urgency Ordinance of the City of Wheatland Amending Wheatland Municipal Code Title 18 Regarding Medical Marijuana Dispensaries.